

REMARKS/ARGUMENTS

Claims 20-29 are pending in the present application. Claim 28 has been cancelled by the present preliminary amendment. Claim 20 has been amended to limit the dye used in the staining solution to a polymethine dye and to clarify the role of the buffer for maintaining an acidic pH. Claim 28 has been amended to similarly clarify the role of the buffer for maintaining an acidic pH.

Support of the amendments may be found at page 10, lines 13-21; and page 14, line 17 to page 15, line 23.

Accordingly the claim amendments render moot the Examiner's objection to the term "for maintaining acidity" as the amended claims clearly state that the buffer is used for maintaining an acid pH, i.e. below pH 7.0.

Claim 20 remains rejected under 35 U.S.C. 102 in view of Jackson, U.S. Patent No. 5,688,011.

The Examiner notes in his Office Action of April 2, 2004 that no prior art (including Jackson) suggests a bacterial staining composition comprising a polymethine dye, sulfamic acid, (a substance capable of reducing nitrite ions), and a buffer at an acidic pH (page 9 of the Office Action). Accordingly, claim 20 has been further amended to recite that the staining solution contains a polymethine dye.

Based on the above, claim 20 is patentable in view of the prior art cited by the Examiner.

Claims 21-27 are all dependent on claim 20, and are likewise patentable in view of the prior art.

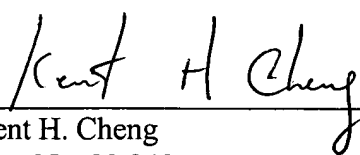
Claim 29 is directed to a reagent for staining bacteria comprising a dye capable of staining bacteria; a buffer for maintaining an acidic pH and an effective amount of a substance capable of reducing nitrite ions. The Jackson reference discloses a test kit in which the bromophenol blue dye indicator is used to detect whether the solution has become alkaline when ammonia is produced from urea by a urease reaction in the presence of *H. pylori*. The Tris buffer is not capable of

"maintaining an acid pH" as required by the present invention, otherwise the test kit of Jackson would not operate as disclosed. Accordingly, claim 29 is patentable in view of Jackson.

It is respectfully submitted that claims 21-27 and 29, as amended, are now in a condition for allowance. Early notice of such allowance is earnestly submitted.

Any additional fees or charges required at this time in connection with the application may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,
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